

## STATE OF CONNECTICUT

DOCKET NO. CR07-241860 : SUPERIOR COURT  
 STATE OF CONNECTICUT, : JUDICIAL DISTRICT FOR NEW HAVEN  
 v. : AT NEW HAVEN  
 JOSHUA KOMISARJEVSKY, : JULY 29, 2011  
 Defendant. :

Judicial District of New Haven  
 SUPERIOR COURT  
 FILED

JUL 29 2011

**DEFENDANT JOSHUA KOMISARJEVSKY'S  
 MOTION FOR LEAVE TO MAKE AN EXTRAJUDICIAL STATEMENT  
AND POINTS AND AUTHORITIES IN SUPPORT THEREOF**

**CHIEF CLERK'S OFFICE**

COMES NOW the defendant Joshua Komisarjevsky, by and through undersigned counsel and pursuant to the Court's Order of July 1, 2011 Re: Motion to Modify and Extend Order Re: Extrajudicial Statements and Authorities in Support Thereof, and hereby moves for leave to make an appropriate response to the characterization by the "Petit, Hawke, Renn and Chapman Families" that the "unrealized potentials" of Jennifer Hawke Petit and her two daughters "were stolen by pure evil without a second thought of remorse." As set forth more fully herein, not only is the families' characterization inaccurate in that Mr. Komisarjevsky is a damaged human being (rather than the embodiment of evil) and has, in fact, displayed remorse, but such statements, which are part of an ongoing public relations campaign, also have the direct and immediate effect of impinging upon Mr. Komisarjevsky's constitutional right to a fair trial. In support of this request, Mr. Komisarjevsky states as follows:

1. The above-quoted, purely gratuitous language is taken from a memoriam published in the Hartford Courant and the New Haven Register, if not other newspapers, published on July 23, 2011. See Exhibit A. As noted in prior submissions and during the June 27 hearing, it is not the first time that members for the Petit, Hawke, Renn and Chapman families, in particular William

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Petit, have employed provocative language when referring to Mr. Komisarjevsky or his co-defendant, Steven Hayes. As examples:

- In response to the legislature's historic vote in 2009 to abolish the death penalty prospectively in Connecticut, William Petit made a series of public comments referencing Mr. Komisarjevsky and his co-defendant Steven Hayes.

(a) On May 22, 2009, Petit distributed what is best characterized as an open letter to the media, shopping his point of view around to any news outlet willing to air his opinions. In that letter, Petit wrote, *inter alia*, "The legislators want us to take years to talk about the killers and allow them to utilize our resources when these animals have broken a sacrosanct law of our society" and "To be personal in my case the DA has been ready to go to court since march (sic) 2008 and the defense (Ullman and Donovan) are wasting as much time as possible because they have no concern for the victims nor for the thousands of dollars that they will waste.

These are heinous murderers who have forfeited their rights to continue to live among us." A Letter From Dr. William Petit, Cheshire Herald (May 29, 2009).

(b) Among the on-line comments to an op-ed piece written by Bridgeport Attorney Richard Meehan wrote concerning the vote, Death penalty should be repealed in Connecticut, Norwich Bulletin (May 23, 2009), was one from

"JENHAZEKK", which begins:

Mr Meehan,

Your brethren are part of the problem. My wife 48, and daughters 11 and 17 were tortured, raped, assaulted and murdered in our own home by two men with at least 49 convictions between them and let out on parole by Robert Farr

who broke the law and never reviewed the (sic) sentencing transcript nor interviewed these animals prior to letting them out.<sup>1</sup>

(c) Among the on-line comments to an op-ed piece on the New Haven

Independent Web site concerning the vote, Steve Kalb, Execute This, NH

Independent (May 26, 2009), was one from an individual identified as "William A Petit Jr MD" which reads:

Mr Kalb,

Nice to see your grinning face above your unsupported comments. I wonder if you would be grinning if you were there when two animals broke into my home and nearly beat me to death with a baseball bat. I wonder if you would be grinning if you watched them sexually molest my 11 year daughter. Perhaps the beating and torture of my 17 year old who had never hurt a soul in her life, or perhaps my wife with MS who did as they asked and then was strangled and burned and then these animals poured gas on my daughters while alive and lit them on fire and left the house allowing them to die tied to their own beds.

There will never be closure. The death penalty is about justice. It is about the fact that once you horribly and unjustifiably take a life you have forfeited your own. We have a system that allows for defense. Apparently they feel it is a game-my family had what, 30, 45, 60 seconds to consider their own deaths, yet 670 days later we are still waiting to go to trial because of the antics of the defense attorneys.

The death penalty serves its intended purpose-justice. revenge would be doing to these animals what they did to others without a trial.

The death penalty is a deterrent-the murderer can never kill again and there is adequate data to support that position. You are philosophically and morally wrong in your positions and statements. We need to stand up for what is right and not avoid things because they do not make us feel good. 70% of CT citizens support the death penalty-I am positive we can find an adequate number to too those convicted in the eye and administer justice.

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<sup>1</sup> This comment was surely written by William Petit. The content of the comment leads to this conclusion, as does the name of commentator (the name is an amalgamation of the victims' nicknames). And, an on-line search of "JENHAZEKK" establishes that the name is a nom de internet of William Petit. See <http://social.implu.com/t/Wreckinkickz> (listing "JENHAZEKK" as a "handle" corresponding to the "name" "William Petit Jr") and <http://social.implu.com/t/JENHAZEKK> (titled "JENHAZEKK (William Petit Jr) Account Snapshot"). It is further noted that Mr. Komisarjevsky has not sustained anything close to 49 convictions.

- In the wake of the second anniversary of the tragedy and following a hearing on a meritless motion by the Office of the Victim Advocate, the New Haven Register reported: "While much of Marybelle Hawke's anger is directed at the handling of the case, her son-in-law's fury is focused on Hayes and Komisarjevsky. In a memoriam to his wife and daughters published in today's New Haven Register, Petit writes in part, 'all the victims ... continually think and grieve while the murderers breathe air and eat three meals a day and further contemplate how they will manipulate the system and waste our money.' Following Tuesday's court hearing, Petit said, 'By their actions, the defendants showed they were unfeeling and thoughtless.'" Luther Turmelle, Petit family marks anniversary of tragedy Thursday, NH Register (July 23, 2009).
- Following publication of Brian McDonald's In the Middle of the Night, William Petit "widely circulated [an] e-mail" wherein he wrote: "This (book) allows this animal [Joshua Komisarjevsky] to give his side of the story without cross-examination or forensics, and then causes the other side of the defense to whine that they cannot get a fair trial..." John Rook, Residents Protest Petit Murder Book At Library, Cheshire Herald (Oct. 22, 2009).<sup>2</sup>

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<sup>2</sup> Relative to the "public relations campaign" comment above, around this time it was reported that former television news anchor and radio host Ann Baldwin, President of Baldwin Media Marketing, LLC, was "voluntarily advising Dr. William Petit." Rick Green, Mad Women: great moments in PR, Hartford Courant (Oct. 23, 2009). According to the company's Web site, Baldwin Media Marketing's services include crisis communication ("Our experience enables you to handle any media encounter decisively."), media training ("You can maximize every media opportunity - positive or negative - by delivering the right message at the right time."), public relations ("We help our clients put communications to work in support of their objectives."), and marketing ("Manage your image and deliver your message! A strong coordinated marketing

- Approximately one week after the start of evidence in State v. Hayes, the Petit Family Foundation held its first "Ride for Justice" at which William Petit said: "It's really a wonderful outpouring of support, ... and I think it shows that, in time, good will overcome evil." Thousands Of Bikers Shows Their Support For Petit Family, Hartford Courant (Sept. 26, 2010).
- Following the return of the jury's verdict in State v. Hayes, William Petit, in speaking to the media throng assembled outside the courthouse and responding to questions regarding his daily attendance, said: "I think you'd probably do the same thing for your family, if your family was destroyed by evil," adding "Over the past few weeks, I kept telling myself that good will overcome evil." Randall Beach, Life or death: Penalty phase of trial set to begin Oct. 18, NH Register (Oct. 12, 2010).
- Speaking on Oprah Winfrey's nationally televised talk show after the conclusion of the Hayes trial and just months prior to the start of jury selection in this case, William Petit "said Hayes received 'the appropriate penalty.' He added, 'I think God wants us to hate evil. God wants us to abide by man's law.' On the subject of forgiveness, Petit said, 'I don't think you can forgive ultimate evil.'" Randall Beach, Petit, sister describe ordeal in TV interview with Oprah, NH Register (Dec. 9, 2010).
- Soon thereafter, in a story concerning the Petit Family Foundation William Petit continued to refer to evil: "During his comments on the courthouse steps following major developments in the Hayes trial, Petit often referred to the crime as 'evil,' and he repeated the phrase in his e-mailed statement. 'I know that true evil does exist in

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campaign is critical in handling and promoting your business, product or message.")). See <http://www.baldwinmedia.net/services.html>.

the world, though many people refuse to see it,' he said." Randall Beach, In the wake of tragedy, family foundation helps many causes, NH Register (Dec. 18, 2010).

2. As the Court acknowledges, its gag order is more restrictive than Rule 3.6 of the Connecticut Rules of Professional Conduct, though the order allows applications in situations such as that presented by the families' publication of their memoriam in the state's largest newspapers. Of particular relevance to the instant motion, the Commentary to Rule 3.6 provides:

[E]xtrajudicial statements that might otherwise raise a question under this Rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

3. With the Court's permission, Mr. Komisarjevsky seeks to respond to the July 23, 2011 memoriam as follows:

Recently, in commemorating the fourth anniversary of the tragic deaths of their loved ones, the Petit, Hawke, Renn and Chapman families once again attempted to paint Joshua Komisarjevsky in a pernicious light, an effort consistent with their ongoing public campaign to ensure his execution or, as they prefer to label it, "justice." Contrary to the families' aspersions, however, Mr. Komisarjevsky is not "pure evil", he has displayed remorse, and his execution would not advance the ends of justice, as that concept is defined in most of the civilized world.

Joshua Komisarjevsky is, among many things, a damaged human being, who, like any of us, deserves not be judged solely by the worst of his acts — no matter how difficult or abhorrent those acts may be reported or perceived. It speaks to the value of Josh's life and to his fundamental humanity that he continues to enjoy the love and support of his family and many in the community. These people know Josh not only for what occurred and is alleged to have occurred on July 23, 2007 but also for his positive, redeeming attributes, which exist despite mental disorder and the harm done by years of trauma and abuse. Even now, with several years of hate and contempt directed at him and anyone close to him, all Josh desires in terms of his case is a sentence of incarceration for the remainder of his natural life in a maximum-security prison, the best he can hope for notwithstanding the lack

of intent to cause or bring about the deaths of the victims in this case. As he has from the beginning, Josh wants to accept responsibility for what he has done and to move on, thereby also allowing anyone affected by what occurred that night to at least move on from this process.

Notably, while castigating Josh in one breath, the Petit, Hawke, Renn and Chapman families invoke the words of Mother Theresa (the Blessed Theresa of Calcutta) and of Mahatma Gandhi in the next. Both, however, are universally acknowledged as apostles of peace, non-violence and love, as well as vocal death penalty opponents. Mother Theresa, who intervened on behalf of numerous death row prisoners to prevent execution, once said to a guard on San Quentin's death row, "What you do to them, you do to God." This echoes advice she offered governors when making calls supporting clemency of the condemned: "Do what Jesus would do if he was in your position." (John Dear, S.J., Mother Theresa and the Death Penalty, America (June 19, 1999)). Similarly, Mahatma Gandhi asserted: "I cannot in all conscience agree to anyone being sent to the gallows. God alone can take life because he alone gives it." Gandhi also cogently observed: "An eye for an eye makes the whole world blind."

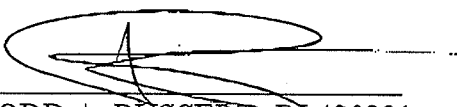

It is understandable and easy to cast aspersions at someone like Joshua Komisarjevsky, especially where he was involved in events that resulted in the deaths of three innocents. At the same time, our better selves recognize that life is no mere abstraction nor comprised of absolutes, like absolute good or pure evil. As the Book of John teaches: "If any one of you is without sin, let him be the first to throw a stone." There are reasons why Joshua Komisarjevsky was in the Petit home that fateful night, reasons that go far beyond simplistic and erroneous claims that make for ready sound bites. To the extent that the state, at the families' apparent behest and urging, persists in trying to execute Mr. Komisarjevsky, those reasons will soon be made public, as will the multitude of reasons why a jury should spare Josh's life. Respectfully, however, killing, even that the state chooses to sanction, honors no one. Mother Theresa and of Mahatma Gandhi knew this, and so should we all.

WHEREFORE, for all of the reasons set forth above, together with such other reasons as may be advanced in any memorandum of law submitted and/or hearing conducted in connection herewith, Joshua Komisarjevsky respectfully prays the Court grant the relief requested.

Respectfully submitted,  
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ORDER

The foregoing Motion having been considered, it is hereby

Ordered: GRANTED / DENIED

THE COURT

By: \_\_\_\_\_, J.



**IN MEMORIAM**

In Loving Memory  
**Jennifer Lynn Hawke-Petit**  
**09-26-1958--07-23-2007**  
**Hayley Elizabeth Petit**  
**10-15-1989--07-23-2007**  
**Michaela Rose Petit**  
**11-17-1995--07-23-2007**



Four years-an eternity or a blink, on many days it is hard to know. You are not forgotten, you are remembered and loved by your relatives and friends and many who never knew you. Your unrealized potentials were stolen by pure evil without a second thought of remorse. Many are doing good deeds in your memories and honoring you day to day. The Health Center, Dartmouth, and Chase Collegiate all miss your smiles, kindness, love and idealism. Jen lived, "We can do no great things-only small things with great love." Mother Teresa. Hayley believed "It is only with the heart that one can see rightly; what is essential is invisible to the eye." A. St. Exupery. Michaela learned in 5th grade, "We must be the change we wish to see in the world." M. Gandhi. Your voices will cry out forever. You were the lights that kept out the darkness. We miss you every day and love you very much. Special thanks to MD, GN, BB, RS, and KG.

**The Petit, Hawke, Renn and  
Chapman Families**

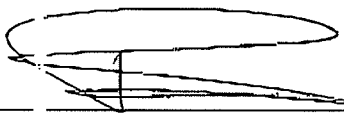
**S**hare memories of loved ones  
in the obituary section on

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CERTIFICATE OF SERVICE

I hereby certify that, in accordance with Connecticut Practice Book §§ 10-12, 10-13 and 10-14, a copy of the foregoing motion was served via hand this 29th day of July 2011 on the following:

Michael Dearington, State's Attorney  
Gary W. Nicholson, Senior Assistant State's Attorney  
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\_\_\_\_\_  
Todd Bussert  
Commissioner of the Superior Court